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December 20, 2017

The Honorable Nicholas G. Garaufis
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *State of New York, et al. v. Trump, et al.*, 1:17-cv-05228-NGG-JO;
AND
Batalla Vidal, et al. v. Nielsen, et al., 1:16-cv-04756-NGG-JO

Consent Motion for Leave to File Public Education Amicus Brief

Dear Judge Garaufis:

The New York State United Teachers, the National Education Association, and the American Federation of Teachers, along with other national, state, and local organizations representing public school educators, school administrators, and school board members respectfully submit this letter to seek this Court's leave to file an *amicus* brief in support of Plaintiffs' motion for preliminary injunction in the above-captioned cases.¹ A copy of the proposed brief is attached as Exhibit 1 to this motion. The proposed brief complies with Federal Rule of Appellate Procedure 29(a)(5) and contains under 6,500 words, which is one-half the maximum authorized for the Plaintiffs' principal brief. Plaintiffs and Defendants have consented

¹ Proposed *amici* respectfully submit this letter motion under Section II.A of Your Honor's Individual Rules, which requires communications with chambers to be by letter, and because Section III.A., Civil Motions, does not address the instant motion. In the alternative, proposed *amici* request a pre-motion conference to authorize leave to file such an *amicus* brief, pursuant to Rule III.A of Your Honor's Individual Rules.

to the filing of the accompanying *amicus* brief. In addition, this letter is submitted to enter my appearance on behalf of the Public Education *amici* before this Court.

The purpose of proposed *amici's* brief is to assist the court in analyzing whether Plaintiffs' Equal Protection and Administrative Procedure Act claims merit preliminary injunctive relief, *see* Plaintiffs' Mots. For Preliminary Injunction, and more specifically in providing the Court with information regarding the irreparable harm that will occur to public education if the rescission of the Deferred Action for Childhood Arrivals (DACA) program is not enjoined. Nearly 800,000 DACA recipients who have met every expectation set by the program will lose ties to home, community, family, and school. The trauma will not be felt by them in isolation. Their siblings, classmates, teachers, friends, and communities will suffer with them. *Amici* are the counselors, principals, teachers and faculty, superintendents, para-professionals, aides, school board members, and nurses who teach our students, staff our public schools and universities, and govern our school districts. It is their duty and professional purpose to care for all of our country's students, regardless of immigration status. It is that shared commitment which brings them together before this Court with urgency. *Amici's* education professionals know well the value of contributions made by DACA recipients and so too the harm that will be worked by DACA's termination.

Public Education *Amici* are: AASA, The School Superintendents Association, American Federation of School Administrators, American Federation of Teachers, Council of School Supervisors and Administrators, National Education Association, National School Boards Association, New York State Council of School Superintendents, New York State School Boards Association, New York State United Teachers, Professional Staff Congress/CUNY, School

Administrators Association of New York State, United Federation of Teachers, and the United University Professors.

“District Courts have broad discretion in deciding whether to accept amicus briefs.” *Jamaica Hosp. Med. Ctr., Inc. v. United Health Grp., Inc.*, 584 F. Supp. 2d 489, 497 (E.D.N.Y. 2008) (quotation omitted). District courts welcome *amicus* briefs from nonparties “where the proposed submission assists the court by, *inter alia*, providing a point of view that may not be available from the parties.” *McBeth v. Gabrielli Truck Sales, Ltd.*, 768 F. Supp. 2d 392, 394 (E.D.N.Y. 2011); *see also Banco Nacional de Cuba v. Sabbatino*, 307 F.2d 845, 852 (2d Cir. 1962) (permitting a group of corporations involved in similar cases to file a brief as amici curiae), *rev’d on other grounds*, 376 U.S. 398 (1964); *James Square Nursing Home, Inc. v. Wing*, 897 F. Supp. 682, 683 n.2 (N.D.N.Y. 1995)(granting a non-for-profit association’s motion to appear as amicus curiae because the court believed the brief would “aid in the determination of the motions at issue”), *aff’d*, 84 F.3d 591 (2d Cir. 1996).

The Court should exercise its discretion and permit Public Education *Amici* to file the attached *amicus* brief. Public Education *Amici*’s brief fills “the classic role of amicus curiae by assisting in a case of general public interest[] [and] supplementing the efforts of counsel[.]” *Miller-Wohl Co. v. Comm’r of Labor & Indus. State of Mont.*, 694 F.2d 203, 204 (9th Cir. 1982). Public Education *Amici*’s brief focuses on the impact of DACA’s rescission on the education system by drawing upon *Amici*’s knowledge of our nation’s public schools, students, and employees. The teachers, staff, students, graduates, administrators, and school board members who contributed to this brief present unique information for the Court’s consideration.

For the foregoing reasons, Public Education *Amici* respectfully request permission to file the *amicus* brief attached as Exhibit 1 on or before December 22, 2017, or in the alternative, a pre-motion conference concerning leave to file the brief.

Respectfully submitted,

/s/ Wendy Star (WS 4755)

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